

**REMARKS**

Reconsideration of the application is respectfully requested. Claims 23, 24, 26, 27, 34, 35, 37-39, and 44-49 are pending in the present application. In the Office Action dated June 18, 2008, the Examiner rejected claims 23, 24, 26, 27, 34, 35, 37-39, and 44-48. No claims have been amended or canceled; and new claim 49 has been added. Claim 49 is fully supported in throughout the original specification, see for example page 4 lines 5-17. No new subject matter has been added. Applicants believe that the present application is in condition for allowance, and favorable action is respectfully requested.

***Claim Rejections – 35 USC § 103***

Claims 23, 24, 26, 27, 34, 35, 37-39, and 44-48 are rejected under 35 USC § 103(a), as being “unpatentable over Agrawal et al. (WO 00/31889) and the admitted prior art of the instant application.” Applicants respectfully traverse these rejections since the cited portions of Agrawal and the present application, taken alone or in combination, fail to teach or suggest every limitation of any of the rejected claims.

For example, claim 23 recites, among other limitations, “a finger resource for partitioning a frame of data into a plurality of portions of data symbols...wherein the number of said plurality of portions of data symbols is based on a data rate of data symbols of said frame of data.” Applicants submit that at least this limitation is not taught or suggested by the cited portions of Agrawal and the present application.

In making the rejection, the Examiner states that Agrawal does not specifically teach “wherein the number of said plurality of portions of data symbols is based on a data rate of data symbols of said frame of data.” The Examiner relies on the background section of the instant application to show this subject matter (Background section of the present application (page 2, lines 2-12)). (See Detailed Action, pages 2-3, numbered paragraph 4).

In this regard, Applicants first invite the Examiner to revisit the Examiner’s Reasons for Allowance set forth on pages 4 and 5 of the Office Action dated February 12, 2007, which indicates that:

“The instant application is deemed to be directed to a non-obvious improvement over the admitted prior art of the instant application

[Emphasis added]...The improvement comprises that ‘wherein the number of said plurality of channel elements assigned to each frame of data is based on a data rate of the data symbols in each of said plurality of frames of data.’”

Based on this reasoning, the Examiner properly concluded that the admitted prior art of the instant application did not teach or suggest this subject matter and indicated that the subject matter of the currently pending claims was allowable. Now, however, the Examiner is indicating that the very subject matter that was the reason for allowing the claims over the art of record, including the admitted prior art of the instant application, is now a basis for rejection in light of the admitted prior art of the instant application. Applicants submit that the Examiner’s previous finding of allowability was proper.

For example, Applicants submit that a closer review of the cited portion of Applicants’ Background section reveals that the claimed “partitioning a frame of data into a plurality of portions of data symbols...wherein the number of said plurality of portions of data symbols is based on a data rate of data symbols of said frame of data” is neither taught nor suggested. For example, the cited portion of Applicants’ Background section states, in part, that:

“The number of data symbols in a frame of data depends on the data rate of the frame. A frame of data contains more data symbols at high data rates than at low data rates. As such, processing a frame of data takes more resources at high data rates than at low data rates.”

Applicants submit that this passage merely describes in general terms some of the problems associated with having limited system resources. It does not teach or suggest the claimed “partitioning a frame of data into a plurality of portions of data symbols”. Moreover, notably absent from the cited portions of Applicants’ Background section is any discussion or suggestion of how to implement a system, method, or apparatus, as recited in Applicants’ claims, capable of “partitioning a frame of data into a plurality of portions of data symbols...wherein the number of said plurality of portions of data symbols is based on a data rate of data symbols of said frame of data.”

Thus, Applicants submit that the cited portions of Agrawal and Applicants’ Background section fail to teach or suggest “wherein the number of said plurality of

portions of data symbols is based on a data rate of data symbols of said frame of data,” as recited in Applicants’ claim 23.

Accordingly, Applicants respectfully request withdrawal of the rejection of claim 23. Independent claims 34 and 44 contain similar limitations to claim 23 and are allowable for at least the same reasons as claim 23.

Claims 24, 35, and 45 depend from claims 23, 34, and 44, respectively. Thus, Applicants submit that claims 24, 35, and 45 are allowable at least for the reason that they depend from an allowable base claim.

Independent claim 26 contains subject matter similar to claim 23. Specifically, claim 26 recites, among other limitations, “wherein the number of said plurality of channel elements assigned to each frame of data is based on a data rate of the data symbols in each of said plurality of frames of data.” Applicants submit that claim 26 is allowable for at least the same reasons discussed above in regards to claim 23 and respectfully request withdrawal of the rejection of claim 26. Independent claims 37 and 46 contain similar limitations to claim 26 and are allowable for at least the same reasons as claim 26.

Claims 27, 38, 39, 47, and 48 depend from claims 26, 37, and 46, respectively. Thus, Applicants submit that claims 27, 38, 39, 47, and 48 are allowable at least for the reason that they depend from an allowable base claim.

#### ***New Claim 49***

Independent claim 49 recites features similar to those recited in claim 23, and thus, claim 49 is allowable for at least the same reasons given above in connection claim 23.

### **CONCLUSION**

In view of the foregoing, Applicants respectfully submit that all pending claims in the application are patentable. Accordingly, a notice of allowance is respectfully requested. Should any issues remain unresolved, the Examiner is encouraged to telephone the undersigned at the number provided below.

Applicants hereby petition for a one (1) month Extension of Time under 37 CFR § 1.136(a) to extend the period of response from September 18, 2008 to October 18, 2008. The appropriate fees under 37 CFR § 1.17 are submitted herewith.

If it is determined that additional fees are due, the Commissioner is hereby authorized to charge payment of any fee(s) or any underpayment of fee(s) or credit any overpayment(s) to Deposit Account No. 17-0026. If necessary, Applicants request, under the provisions of 37 CFR 1.136(a) to extend the period for filing a reply in the above-identified application and to charge the fees for a large entity under 37 CFR 1.17(a).

Respectfully submitted,

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